


Frequently Asked Questions About Enterprise Zone Tax Incentives



CALIFORNIA FORM
38052

YEAR **1999**

Attach to your California tax return.

Name(s) as shown on return _____

Enterprise Zone Deduction and Credit Summary

A. Check the appropriate box for your entity type:
☐ Individual ☐ Estate ☐ Trust ☐ C corporation ☐ S corporation ☐ Partnership
☐ Exempt organization ☐ Limited liability company ☐ Limited liability partnership

B. Enter the name of the enterprise zone business: _____

C. Enter the address (actual location) where the enterprise zone business is conducted: _____

D. Enter the name of the enterprise zone in which the business and/or investment activity is located. See General Information C, Enterprise Zone Designation. _____

Principal Business Activity Code number of the enterprise zone business _____

the six-digit number from the Principal Business Activity Code Chart on pages 23 through 25. For the Long Beach _____

one, enter the four-digit Standard Industrial Classification (SIC) code number. _____

employees in the enterprise zone _____

ded in the computation of the hiring credit, if claimed _____

4 in the computation of the hiring credit, if claimed _____

Frequently Asked Questions About Enterprise Zone Tax Incentives

What is an Enterprise Zone?

An Enterprise Zone is an economically depressed area in California that is designated as such by the California Trade and Commerce Agency. The purpose is to encourage and stimulate growth, development, and investment in the area. Taxpayers that conduct business activities within the boundaries of an Enterprise Zone may qualify for special tax incentives.

How do I know if I am located in an Enterprise Zone?

To verify whether your business is located within an Enterprise Zone, you may contact the California Trade and Commerce Agency at:

**ENTERPRISE ZONE PROGRAMS
CALIFORNIA TRADE AND COMMERCE AGENCY
801 K STREET SUITE 1700
SACRAMENTO CA 95814**

Telephone: (916) 324-8211

FAX: (916) 322-7214

Internet Website: www.commerce.ca.gov

What are the available Enterprise Zone tax incentives and who is qualified to take those incentives?

There are five tax incentives available to taxpayers that invest in or operate a trade or business located within an Enterprise Zone. The tax incentives are the:

- Hiring credit;
- Sales or use tax credit;
- Business expense deduction;
- Net interest deduction; and
- Net operating loss (NOL) deduction.

For information about each tax incentive, refer to the *Enterprise Zone Business Booklet* (FTB 3805Z Booklet), or the *Guidelines for Enterprise Zone Tax Incentives* (FTB Pub.1047).

A tax credit is also available to employees that earn wages within an Enterprise Zone. See the form, *Enterprise Zone Employee Credit* (FTB 3553).

How do I claim Enterprise Zone tax incentives?

The *Enterprise Zone Deduction and Credit Summary* (FTB 3805Z), is found in the *Enterprise Zone Business Booklet* (FTB 3805Z Booklet). File this form with your California tax return to claim the Enterprise Zone tax incentives. For those tax incentives that require an election, the election is made on this form.

The *hiring credit*, *sales or use tax credit*, and *net interest deduction* do not require an election, and may be claimed on either an original return or an amended return.

The *business expense deduction* is claimed by making an election on the original return for the year in which the property is placed in service. The election may *not* be made on an amended return, and is revocable only upon the written consent of the Franchise Tax Board.

An Enterprise Zone *NOL deduction* is claimed by making an election on the original return for the year in which the NOL is incurred. The election may *not* be made on an amended return, and is revocable only upon the written consent of the Franchise Tax Board.

Do I have to include the form FTB 3805Z with my tax return?

Yes. The Franchise Tax Board is required to annually summarize and provide the information on this form to the California Legislature or the California Trade and Commerce Agency. The information may be used to evaluate the usefulness of the incentives, to improve the program, or to make future decisions about continuation of the program.

Which employees qualify me for the hiring credit?

For taxable or income years beginning on or after January 1, 1997, you may qualify for the hiring credit if you hire an employee after an area has been officially designated as an Enterprise Zone and who, immediately before starting to work for you, is any of the following:

- A person receiving or eligible to receive subsidized employment, training, or services funded by the federal Job Training Partnership Act (JTPA), or its successor;
- A person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN), or its successor;
- An economically disadvantaged individual 14 years of age or older;
- A qualified dislocated worker;
- A disabled individual eligible for, enrolled in, or who has completed a state rehabilitation plan;
- A service-connected disabled veteran;
- A veteran of the Vietnam era;
- A veteran who recently separated from military service;
- An ex-offender;
- A person eligible for, or a recipient of:
 1. Federal Supplemental Security Income (SSI) benefits;
 2. Aid to Families with Dependent Children (AFDC);
 3. Food stamps; or
 4. State and local general assistance;
- A Native American;

- A resident of a Targeted Employment Area (TEA); or
- For employees hired during taxable or income years beginning on or after 1/1/1998, a member of a targeted group as defined in the federal Work Opportunity Tax Credit (IRC Section 51(d) of the Internal Revenue Code).

In addition, at least 90 percent of the employee's work must be directly related to a trade or business activity located in the Enterprise Zone and at least 50 percent of the employee's work must be performed inside the boundaries of the Enterprise Zone.

To determine which employees qualify you for the hiring credit for taxable or income years beginning *before* January 1, 1997, get the *Enterprise Zone Business Booklet* (FTB 3805Z Booklet) or the *Guidelines for Enterprise Zone Tax Incentives* (FTB Pub. 1047), for the year in question.

How long must an employee work for a taxpayer to avoid the recapture rules of the hiring credit?

Recapture of the hiring credit is required if the employee is terminated before the end of the longer of the following two periods;

- The first 270 days of employment (whether or not consecutive); or
- Ninety (90) days of employment plus 270 calendar days.

A "day of employment" includes any day the employee was paid to work, regardless of whether the employee actually worked (including paid holidays, sick days, and vacation days). Exceptions to the recapture rules are discussed in the *Enterprise Zone Business Booklet* (FTB 3805Z Booklet), and the *Guidelines for Enterprise Zone Tax Incentives* (FTB Pub. 1047).

May I take the sales or use tax credit if the property purchased was exempt from sales or use tax when purchased?

No. The sales or use tax credit is allowed only for sales or use tax actually paid or incurred on the purchase of qualified property. If the property was exempt from sales or use tax at the time of purchase, no sales or use tax was paid or incurred.

Do leases qualify for the business expense deduction or the sales or use tax credit?

Yes. If the property is acquired through a leasing arrangement that constitutes a financial (conditional sales) contract, the property may qualify for the business expense deduction or the sales or use tax credit, or both.

To determine whether the lease qualifies as a financial (conditional sales) contract, refer to IRS Revenue Ruling 55-540, 1955-2 C.B. 39, and FTB Legal Ruling 94-2, March 23, 1994.

What type of loan qualifies a creditor for the net interest deduction?

Some types of loans that qualify for the net interest deduction include business loans and mortgage loans from commercial or noncommercial sources. To qualify, all of the following must be met:

- The funds must be loaned after the Enterprise Zone was designated.
- The loan must be made to a trade or business located solely within an Enterprise Zone.
- The loan proceeds must be used only for the trade or business activities within the Enterprise Zone.

Additionally, the lender may not have any type of ownership interest in the borrower's trade or business.

Is the net interest deduction allowed for the life of the loan?

No. The net interest deduction is only allowed as long as the borrower's trade or business is located in an Enterprise Zone. Once the Enterprise Zone designation expires or the borrower moves out of the Enterprise Zone the net interest deduction is no longer allowed.

Is the carryover of the net operating loss deduction to future years limited?

Yes. An Enterprise Zone NOL may be carried forward for 15 years, or until exhausted, whichever occurs first. In addition, if your business operates both within and outside the Enterprise Zone, or is part of a unitary group, you must determine your Enterprise Zone NOL deduction by using the Enterprise Zone apportionment formula. The carryover deduction can only offset business income attributed to the Enterprise Zone. See the *Enterprise Zone Business Booklet* (FTB 3805Z Booklet)

What is the maximum amount of Enterprise Zone credits I may take in any one year?

The total of all Enterprise Zone credits that may be taken in any taxable or income year may not exceed the lesser of the Enterprise Zone tax limitation or the:

- "net tax" limitation for individuals, or
- "tax" limitation for corporations.

California Revenue and Taxation Code Sections 17039 and 23036 define "net tax" and "tax" respectively.

What are the "zone income" or "zone tax" limitations on the Enterprise Zone tax incentives?

The maximum amount of Enterprise Zone credits that may be taken each year is limited to the tax on your business income attributed to the Enterprise Zone. The amount of such tax is determined by considering ALL your business activities conducted in the Enterprise Zone. The total Enterprise Zone credit is the combined amount of the current year's hiring credit and the sales or use tax credit, and any prior year carryovers of these credits.

The Enterprise Zone net operating loss is limited to the Enterprise Zone business loss. The Enterprise Zone net operating loss *deduction* is limited to the Enterprise Zone income.

To determine “zone income,” taxpayers must add the business income or loss from all of the trade or business activities they conduct in the Enterprise Zone.

Nonbusiness income is excluded from the calculation.

For taxable or income years beginning on or after January 1, 1998, taxpayers that operate within and outside of an Enterprise Zone, must figure the total business income or loss apportioned to the Enterprise Zone by use of a property and payroll apportionment factor. For individual taxpayers with wages earned from a business located within and outside an Enterprise Zone, total Enterprise Zone business income or loss is determined by adding income or loss attributed to Enterprise Zone activities. The *Enterprise Zone Business Booklet* (FTB 3805Z Booklet) provides the income or Loss Worksheet for individuals.

The “zone tax” is determined on this “zone income” as if this amount was the taxpayer’s total income or loss for the year.

How are Enterprise Zone tax incentives claimed when passed-through to partners, shareholders, or members?

The “zone tax” or “zone income” limitations apply at the individual level as well as the pass-through entity level. Individuals must first determine their Enterprise Zone business income from ALL business activities they conduct in the Enterprise Zone to determine the amount of Enterprise Zone credits they can claim in the current year. To determine the individual Enterprise Zone income from pass-through investments, the apportionment factor determined at the pass-through entity level is applied to the distributive share of the individual investor’s income or loss. For example, if Partnership A operates 80 percent in the Enterprise Zone and the partner’s distributive share of partnership income is \$100,000, the individual’s Enterprise Zone income from this activity is \$80,000. Wages paid by the pass-through entity also are considered business income and are apportioned to the Enterprise Zone based on the percentage of services performed within the Enterprise Zone.

RELATED FTB FORMS AND PUBLICATIONS

Guidelines for Enterprise Zone Tax Incentives
(FTB Pub. 1047)

Enterprise Zone Business Booklet (FTB 3805Z Booklet)
Economic Development Areas Audit Manual